



**UNITED STATES HOUSE OF REPRESENTATIVES
OFFICE OF THE MAJORITY WHIP
THE HONORABLE JAMES E. CLYBURN (SC-06)**

THE WHIP PACK

WEEK OF OCTOBER 15, 2007

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Bill Text and Background for the Week of October 15, 2007

- H.R. 2102 – Free Flow of Information Act of 2007
- H.Res. 734 – Expressing the sense of the House of Representatives regarding the withholding of information relating to corruption in Iraq
- H.R. 2095 - Federal Railroad Safety Improvement Act of 2007
- H.R. 3773 - Responsible Electronic Surveillance That is Overseen, Reviewed, and Effective (RESTORE) Act
- Vote on Overriding the President's Veto of H.R. 976, the Children's Health Insurance Program Reauthorization Act of 2007

H.R. 2102 – FREE FLOW OF INFORMATION ACT OF 2007 *(Rep. Boucher – Judiciary)*
(Subject to a Rule)

Bill Text: [HTML Version](#), [PDF Version](#)
[Bill Summary and Status](#)

Rules Committee Meeting: Monday, October 15, 2007 at 5:00 p.m. in H-313 the Capitol, [Amendment Process Announcement](#), [Summary and Text of Amendments Submitted](#)

Committee: [Committee on the Judiciary](#)

Committee Staff Contact: 5-3951

LEGISLATION AT A GLANCE:

H.R. 2102, The Free Flow of Information Act of 2007, would provide journalists with a qualified privilege as to sources and information, while at the same time, recognizing the public interest in effective law enforcement and robust national security.

Over the last few years, more than forty reporters have been subpoenaed for the identities of confidential sources in nearly a dozen cases. Although the Department of Justice has promulgated voluntary guidelines for issuing subpoenas to the media and reporters, these guidelines do not apply to civil litigants in federal court and give unreviewable discretion to special prosecutors.

H.R. 2102 establishes important federal ground rules for all parties -- prosecutors, civil litigants, journalists and sources -- and sends a signal to confidential sources that they will be protected in most circumstances to bring forward to news organizations public evidence of waste, fraud and abuse in government and in the private sector.

The bill requires journalists to testify at the request of criminal prosecutors, criminal defendants and civil litigants who have shown by a preponderance of the evidence that they have met the various tests for compelled disclosure.

The bill contains provisions to ensure that the privilege would not impair law enforcement's efforts to prevent acts of terrorism, threats to national security, and death or bodily harm to members of the public, or to identify a person who has disclosed significant trade secrets or certain financial or medical information in violation of current law.

The bill will enable Federal law enforcement authorities to obtain an order compelling disclosure of the identity of a source in the course of an investigation of a leak of properly classified information. The bill strikes an appropriate balance between strengthening the hand of law enforcement and ensuring the free flow of information on the other, by providing that the disclosure of a leaker's identity can be compelled whenever the leak has caused or will cause "significant and articulable harm to the national security."

The bill permits law enforcement to obtain an order compelling disclosure of documents and information obtained as the result of eyewitness observations of alleged criminal or tortuous conduct by the covered person.

Forty-nine states and the District of Columbia recognize a reporter's privilege through either state laws or court decisions. In a brief filed with the Supreme Court, a bipartisan group of thirty-four state attorneys general pointed out that the lack of a clear standard in federal court is undermining state laws. The legislation is a reasonable and well-balanced approach that will provide much needed clarity at the federal level.

Major national print and broadcast media companies support this legislation, including The Associated Press, Bloomberg News, CBS, ClearChannel, CNN, Cox, Gannett, Hearst, NBC, News Corporation, The New York Times, TIME, and The Washington Post.

House Report 110-370:

[HTML Version](#), [PDF Version](#)

Full Committee Mark-up:

[Full Committee Markup](#), August 1, 2007

[National Journal Report](#)

Summary of Committee Votes:

- [Rep. Gohmert Slander and Libel Amendment to the Substitute Amendment](#) – Added slander and libel, in addition to defamation, to the civil claims or defenses under state law that are not affected by the bill. **Adopted by Voice Vote.**
- [Rep. Gohmert Treason Amendment to the Substitute Amendment](#) – Would have added a clause that states the legislation does not apply in cases involving civil or criminal responsibility for treason. **Withdrawn.**
- [Rep. T. Franks Compelled Disclosure from Covered Persons Amendment to the Substitute Amendment](#) – Would have added to the section on "Compelled Disclosure from Covered Persons." The section would have provided that disclosure of the identity of a source would be compelled if it was determined that such disclosure was necessary to identify a person who has disclosed information or material designated for specific protection against unauthorized release for national security reasons. **Withdrawn.**
- [Rep. Sherman Conditions for Compelled Disclosure Amendment to the Substitute Amendment](#) – Would have removed provisions in the bill outlining when a covered person must disclose information. It would have struck language providing that if the information would reveal the identity of a source or include any information that could reasonably be expected to lead to the discovery of the identity of such a source, disclosure would be required if: It is necessary to prevent an act of terrorism against the United States or other significant and specified harm to national security. If it is necessary to prevent imminent death or significant bodily harm with the objective to prevent such death or harm. It is necessary to identify a person who has disclosed a trade secret, individually identifiable health information or non-public personal information. **Withdrawn by Voice Vote.**
- [Rep. T. Franks U.S. Allies Amendment to the Substitute Amendment](#) – Added that disclosure of the identity of a source is also required if it would prevent an act of terrorism against a U.S. ally. **Adopted by Unanimous Consent.**
- [Rep. Boucher Substitute Amendment](#) – Makes explicit that disclosure of a source can be compelled where necessary to prevent an "act of terrorism." The amendment added new language modifying the standard for making a national security claim by deleting the requirement of showing "imminent and actual harm" to national security. The new language instead would require a showing of "significant harm" to national security. It also revised the bill's definition of a covered person to exclude foreign powers or agents of foreign powers so that, for example, a government-controlled newspaper of a foreign nation does not receive protections of the bill. The amendment also clarified that any "foreign terrorist organization" designated by the secretary of State is excluded from protections under the bill. **Adopted by Voice Vote.**

- **Vote to Report:** Favorably Reported to the Full House, as Amended, by **Voice Vote**.

CRS Reports:

[RL34193](#): Journalists' Privilege: Overview of the Law and Legislation in the 109th and 110th Congresses

GAO Reports:

(TBA)

CBO Report:

[Cost Estimate](#): Ordered Reported by the Committee on the Judiciary

Full Committee Hearing:

[Hearing on H.R. 2102, the "Free Flow of Information Act of 2007"](#), June 14, 2007

Witness Testimony:

- [Rachael Brand](#), Assistant Attorney General for Office of Legal Policy U.S. Department of Justice
- [Randall Eliason](#), Professor George Washington University Law School
- [Lee Levine](#), Levine, Sullivan, Koch & Schulze
- [William Safire](#), Chairman The Dana Foundation
- [Jim Taricani](#), Investigative Reporter WJAR NBC10 Providence/New Bedford, Rhode Island was received from Rachel

Organization Statements:

[Organizations and Companies Supporting HR 2102](#)

[Communication Workers of America \(CWA\)](#)

[National Association of Broadcasters \(NAB\)](#)

[Editorials in Support of a Federal Shield Law](#)

July 30, 2007

Administration Position:

(TBA)

Fact Sheets & Talking Points:

(TBA)

Press Releases, News Articles & Related Information:

(TBA)

Other Resources:

[Cosponsors of H.R. 2102](#)

**H.RES. 734 - EXPRESSING THE SENSE OF THE HOUSE OF REPRESENTATIVES
REGARDING THE WITHHOLDING OF INFORMATION RELATING TO CORRUPTION IN IRAQ**
(Subject to a Rule) (Rep. Waxman - Oversight and Government Reform Committee)

Bill Text: [HTML Version](#), [PDF Version](#)

[Bill Summary and Status](#)

Rules Committee Meeting: Monday, October 15, 2007 at 5:00 p.m. in H-313 the Capitol, [Special Announcement](#)

Committee: [Committee on Oversight and Government Reform](#)

Committee Staff Contact: 5-5051

LEGISLATION AT A GLANCE:

The resolution expresses the sense of the House that the State Department is misusing the national security classification process to withhold from the American people information about widespread and increasing corruption within the Government of Iraq, including by retroactively classifying documents that had been widely distributed previously as unclassified, and by directing its employees not to answer questions in an open forum that call for "Broad statements/assessments which judge or characterize the quality of Iraqi governance or the ability/determination of the Iraqi government to deal with corruption, including allegations that investigations were thwarted/stifled for political reasons."

CRS Reports:

(TBA)

GAO Reports:

(TBA)

CBO Report:

(TBA)

Organization Statements:

(TBA)

Administration Position:

(TBA)

Fact Sheets & Talking Points:

(TBA)

Press Releases, News Articles & Related Information:

[Chairmen Waxman and Tierney Introduce Iraq Corruption Resolution](#), October 12, 2007

[Letter to Secretary Rice](#)

Other Resources:

[Cosponsors of H.RES.734](#)

H.R. 2095 - FEDERAL RAILROAD SAFETY IMPROVEMENT ACT OF 2007 (Subject to a Rule)
(Sponsored by Rep. Oberstar—Transportation and Infrastructure Committee)

Bill Text: [HTML Version](#), [PDF Version](#)
[Bill Summary and Status](#)

Rules Committee: [Rule, Committee Report, and roll call votes, H.RES.724](#)

Committee: [Committee on Transportation and Infrastructure](#)

Committee Staff Contact: 5-4472

LEGISLATION AT A GLANCE:

Reauthorizes the FRA

- *Establishes the FRSA.* Re-establishes the Federal Railroad Administration as the Federal Railroad Safety Administration (FRSA), which shall consider the assignment and maintenance of safety as the highest priority. Creates a new position of Chief Safety Officer.
- *Rail Safety Strategy.* Requires the Secretary to develop a long-term strategy for improving rail safety, which must include an annual plan and schedule for, among other things, reducing the number and rates of accidents, injuries, and fatalities involving railroads.
- *Reports.* Requires regular reporting from the Department of Transportation's Inspector General and the National Transportation Safety Board on the FRSA's progress in implementing statutory mandates and open safety recommendations.
- *Financing.* Increases funded for the Federal rail safety program for fiscal years 2008 through 2011, as follows: \$230 million for FY2008; \$260 million for FY2009; \$295 million for FY2010; and \$335 million for FY2011. In addition, \$18 million is authorized for the design, development, and construction of the Facility for Underground Rail Station and Tunnel at the Transportation Technology Center in Pueblo, Colorado.

Worker and Public Safety

- *Hours of Service Reform.* Provides signal and train crews with additional rest; prohibits them from working in excess of 12 hours; extends hours-of-service standards to railroad contractors; limits limbo time; eliminates the use of camp cars; and requires railroads to develop fatigue management plans.
- *Training.* Establish minimum training standards for railroad workers, and requires the certification of conductors and carmen.
- *Medical Attention.* Prohibits railroads from denying, delaying, or interfering with the medical or first aid treatment of injured workers, and from disciplining those workers that request treatment. Also requires railroads to arrange for immediate transport of injured workers to the nearest hospital.
- *Emergency Escape Breathing Apparatus.* Provides emergency breathing apparatus for all crewmembers on freight trains carrying hazardous materials that would pose an inhalation hazard in the event of unintentional release.

- *Installation of Safety Technologies.* Mandates implementation of positive train control by December 31, 2014, and authorizes the FRSA to establish a grant program to assist railroads in implementing this requirement. Also requires railroads to either install technologies in nonsignaled territories that alert train crews of misaligned switches or operate trains in such areas at speeds that will allow them to safely stop in advance of a misaligned switch.
- *Rail Passenger Disaster Family Assistance.* Directs the NTSB to establish a program to assist victims and their families involved in a passenger rail accident, modeled after a similar aviation disaster program.

Track Safety

- *Internal Rail Defects.* Requires railroads to conduct inspections to ensure that rail used to replace defective segments of existing rail is free from internal defects, and to perform integrity inspections to manage an annual service failure rate of less than 0.1 per track mile on high-risk corridors. Also encourages railroad use of advanced rail defect inspection equipment and similar technologies as part of a comprehensive rail inspection program.
- *Concrete Crossties.* Directs the FRSA to develop and implement regulations for all classes of track for concrete rail ties.
- *Inspection Technologies.* Directs the FRSA to purchase, with amounts appropriated, six Gage Restraint Measurement System vehicles and five track geometry vehicles to enable the deployment of one Gage Restraint Measurement System vehicle and one track geometry vehicle in each region.

Grade Crossing Safety

- *Toll Free Number to Report Grade Crossing Problems.* Requires the railroads to establish and maintain a toll-free telephone number for reporting malfunctions of grade crossing signals, gates, and other devices and disabled vehicles blocking railroad tracks.
- *Sight Distance.* Directs the railroads to remove overgrown vegetation at grade crossings, which can obstruct the view of approaching pedestrians and vehicles.
- *Accident and Incident Reporting.* Requires the FRSA to conduct periodic audits of railroads to ensure they are reporting all accidents and incidents the National Accident Database.
- *National Crossing Inventory.* Requires railroads to report current information, including information about warning devices and signage, on grade crossings to enable the FRSA to maintain an accurate inventory of such crossings.
- *State Action Plan.* Requires the Secretary to identify on an annual basis the top 10 States that have had the most grade crossing collisions, and to work with them to develop a State Grade Crossing Action Plan that identifies specific solutions for improving safety at grade crossings.
- *Emergency Grade Crossing Improvements.* Establishes a grant program to provide emergency grade crossing safety improvements at locations where there has been a grade crossing collision involving a school bus or multiple injuries/fatalities.

Enforcement

- *Civil Penalties.* Increases civil penalties rail safety violations from \$10,000 to \$25,000. The minimum civil penalty remains \$500. For grossly negligent violations or a pattern of repeated violations, the maximum civil penalty is increased from \$20,000 under current law to not more than \$100,000.
- *Criminal Penalties.* Increases the maximum penalty for failing to file an accident or incident report from \$500 to \$2,500.
- *Enforcement Transparency.* Requires the FRA to provide a monthly updated summary to the public of all railroad enforcement actions taken by the Secretary.
- *Safety Investigations.* Makes it unlawful for any person to knowingly interfere with, obstruct, or hamper an investigation by the Secretary of Transportation or the National Transportation Safety Board.
- *Railroad Radio Monitoring.* Authorizes the FRSA to intercept and record certain railroad radio communications for the purpose of correcting safety problems and mitigating the likelihood of accidents or incidents.
- *Inspector Staffing:* Doubles the number of Federal rail safety inspectors by December 31, 2011.

Other

- *Tunnel Information.* Requires railroads to maintain certain information related to structural inspections and maintenance activities for tunnels, and requires those railroads to provide periodic briefings to the government of the local jurisdictions in which the tunnels are located, including updates whenever a repair or rehabilitation projects alters the methods of ingress and egress into and out of the tunnels.

House Report 110-336:

[HTML Version](#), [PDF Version](#)

Full Committee Mark-up:

[Full Committee - Markup](#), June 14, 2007

[Summary of Subject Matter](#)

[National Journal Report](#)

Summary of Committee Votes:

- Rep. Davis Inspector General Removal Amendment to the Cooper Amendment — Requires the head of a federal agency to report the intention to remove or transfer an inspector general from office to both chambers of Congress at least 30 prior to such removal or transfer. **Adopted by Voice Vote.**

- Chairman Oberstar's Manager's Amendment – Allowed limbo time in circumstances of a casualty, an accident, a track obstruction, an act of God, a weather event causing a delay, a snowstorm, a landslide, a track or bridge washout, a derailment, a major equipment failure which prevents a train from advancing, or other delay from a cause unknown and unforeseeable to a railroad carrier when the employee left a designated terminal. In addition to these exceptions, the amendment allowed the carriers to use up to 40 hours a month in limbo time per employee during the first authorization year; 30 hours a month during the second authorization year; and 10 hours a month thereafter. The amendment also required the Secretary to certify that each positive train control system or component has not experienced a safety-critical failure during prior testing and evaluation. If such a failure has occurred, the system or component may be repaired and evaluated in accordance with existing regulations and may be installed when the Secretary certifies that the factors causing the failure have been corrected and approves the system for installation. The amendment further established a grant program for the deployment of train control and component technologies. The amendment made additional changes and technical corrections. **Adopted by Voice Vote.**
- Rep. Lipinski Mexico Inspections Amendment – Would have stated that mechanical and brake inspections of rail cars performed in Mexico would not be treated as satisfying applicable rail safety statutes and regulations unless the Federal Railroad Safety Administration certifies that the inspections are the same as in the United States, that they are being performed by employees with comparable classroom and job training as the United States. In addition, the reports would have to have been written in English. No hazardous material inspections performed in Mexico would have been deemed to have satisfied statutes and regulations. **Withdrawn.**
- Rep. Napolitano State Regulation Amendment – Would have amended the U.S. Code to give states regulation authority to enforce railroad safety. **Withdrawn.**
- **Vote to Report:** Favorably Reported to the Full House, as Amended, by **Voice Vote.**

Subcommittee on Railroads, Pipelines and Hazardous Materials Mark-up:

[Subcommittee on Railroads, Pipelines, and Hazardous Materials – Markup](#), May 22, 2007

[Summary of Subject Matter](#)
[National Journal Report](#)

Summary of Committee Votes:

- Rep. Shuster Substitute Amendment – Would have changed limitations on how much railroad employees can work before a break, and require that all hours of service limitations be based on current scientific or medical knowledge. It also would have included rail security personnel in all Federal Railroad Safety Administration regional offices and forbidden railroad employees from working second jobs during required rest periods between shifts. It would have placed a four-hour cap on "limbo" time - the time in which railroad employees are on the clock, but being transported back to a location where they officially complete their shifts. It would have required positive train control systems to be installed first on commuter rail by 2012, and then by freight rail by 2017. (The underlying bill would require all Class I railroads to install positive train control systems by Dec. 14, 2014). **Withdrawn.**

- Rep. Napolitano Operation Lifesaver Amendment to the Amendment in the Nature of a Substitute – Authorized \$1.5 million each year for four years for Operation Lifesaver, a non-profit public education program aimed at preventing accidents at railroad crossings and along railroad tracks through public service announcements and school programs. It directed Operation Life Saver to work with community leaders and schools, particularly in high-risk areas, to create locally directed programs. **Adopted by Voice Vote.**
- Rep. LaTourette State Legal Action Amendment to the Amendment in the Nature of a Substitute – Would have added language that, in the case of an train accident, nothing in the bill shall be construed to preclude an action under state law seeking damages for passenger injury or death. **Withdrawn.**
- Rep. E. Johnson State Site Obstruction Legislation Amendment to the Amendment in the Nature of a Substitute – Directs the Transportation secretary, within 18 months after the enactment of bill, to make available to states, model state legislation to improve safety by addressing site obstructions at grade crossings. **Adopted by Voice Vote.**
- Rep. Diaz-Balart Safety Management Plans Amendment to the Amendment in the Nature of a Substitute – Added language to clarify that the fatigue management plans railroads are required to produce, would address the safety effects of fatigue on all safety-sensitive employees, not all employees. **Adopted by Voice Vote.**
- Rep. Diaz-Balart Railroad Signalmen Regulation Amendment to the Amendment in the Nature of a Substitute – Would have clarified that the hours and rest periods of railroad signal employees would be governed exclusively by the bill, meaning that signal employees that operate motor vehicles would not be subject to any hours of service rules, duty hours rules, or rest period rules of the Federal Motor Carrier Safety Administration or any other federal or state authority. **Withdrawn.**
- Rep. Johnson State Incidence of Crossing Accidents Amendment to the Amendment in the Nature of a Substitute – Directs the secretary to annually identify the top 10 states with the highest incidence of railroad crossing accidents, and to identify the states where there have been improvements. **Adopted by Voice Vote.**
- Rep. Cummings Information for First Responders Amendment to the Amendment in the Nature of a Substitute – Would have required Class I, Class II, and Class III railroad carriers to provide to local governments on a weekly basis details such as materials being carried by trains and their direction of travel in order to provide first responders more information in the event of an accident. **Withdrawn.**
- Rep. D. Lipinski Grant Program Amendment to the Amendment in the Nature of a Substitute – Would have hastened the use of positive train control systems by establishing a grant program that would help states fund priority systems. **Withdrawn.**

- Chairman Oberstar Substitute Amendment – Requires the Secretary to base efforts to strengthen hours-of-service standards on scientific and medical research; to allow the Secretary to extend the December 31, 2014 deadline for implementation of positive train control systems for any railroad carrier for up to 24 additional months if the Secretary determines that such an extension is necessary to implement a more effective positive train control system, to obtain interoperability between positive train control systems implemented by railroad carriers, to determine that a positive train control system meets existing regulations, or to otherwise enhance safety; to limit requirements that railroad carriers perform rail integrity inspections to manage an annual service failure rate of less than 0.1 per track mile to high-risk corridors, such as those that have significant movements of hazardous materials or where commuter and intercity passenger railroads operate; and to require railroads to transport workers who are injured on-the-job to the nearest hospital. The amendment also provided that time waiting for deadhead transportation and time in deadhead transportation from a duty assignment to the place of final release is neither time on-duty nor time off-duty in situations involving any of the following: a casualty, an accident, an act of God, including a weather event such as a snowstorm, landslide, or track or bridge washout, a track obstruction, a derailment, a major equipment failure, or any other delay that was unforeseen or unknown to the railroad carrier when the employee left a terminal. The amendment requires railroads to report to the Federal Railroad Safety Administration on their usage of limbo time in these situations, and they are required to provide train crews in 'limbo' with additional time for rest equal to the time spent in 'limbo.' **Adopted by Voice Vote.**

- **Vote to Report:** Favorably Reported to the Full House, as Amended, by **Voice Vote.**

CRS Reports:

[RL34128](#): Federal Railroad Safety Programs: Selected Issues in Proposed Reauthorization Legislation

GAO Reports:

(TBA)

CBO Report:

[Cost Estimate](#): Ordered Reported by the Committee on Transportation and Infrastructure

Subcommittee on Railroads, Pipelines, and Hazardous Materials Hearings:

[Subcommittee on Railroads, Pipelines, and Hazardous Materials - Rail Safety Legislation](#), May 8, 2007

[Subcommittee on Railroads, Pipelines, and Hazardous Materials - Role of Human Factors in Rail Accidents](#), March 16, 2007

[Subcommittee on Railroads, Pipelines, and Hazardous Materials - Fatigue in the Rail Industry](#), February 13, 2007

[Subcommittee on Railroads - Rail Safety Reauthorization Hearing Reconvenes](#), January 31, 2007

[Subcommittee on Railroads, Pipelines, and Hazardous Materials - Reauthorization of the Federal Rail Safety Program](#), January 30, 2007

Organization Statements:

(TBA)

Administration Position:

The Administration opposes House passage of H.R. 2095 in its current form. [Statement of Administration Policy](#).

Fact Sheets & Talking Points:

[H.R. 2095 Summary](#), Committee on Transportation and Infrastructure

Press Releases, News Articles & Related Information:

[Opening Statement from the Railroads, Pipelines and Hazardous Materials](#)

[Subcommittee hearing on 'Rail Safety Legislation,'](#) May 8, 2007

Other Resources:

[Cosponsors of H.R.2095](#)

H.R. 3773 - RESPONSIBLE ELECTRONIC SURVEILLANCE THAT IS OVERSEEN, REVIEWED, AND EFFECTIVE (RESTORE) ACT *(Subject to a Rule) (Sponsored by Rep. Conyers –Judiciary Committee)*

Bill Text: [HTML Version](#), [PDF Version](#)

[Bill Summary and Status](#)

Rules Committee Meeting: Tuesday, October 16, 2007 at 2:30 p.m. in H-313 the Capitol, [Special Announcement](#), [Compromise text from Judiciary and Intelligence Committees](#)

Committee: [Committee on the Judiciary](#), [House Permanent Select Committee on Intelligence](#)

Committee Staff Contact: Judiciary – 5-3951; Intelligence – 5-7690

LEGISLATION AT A GLANCE:

The RESTORE Act, introduced by Judiciary Committee Chairman Rep. John Conyers and Intelligence Committee Chairman Rep. Silvestre Reyes, strengthens American counterterrorism efforts and Constitutional liberties at the same time. In a post-9/11 world, we cannot afford an ineffective or legally questionable intelligence effort.

The Restore Act provides a mechanism to authorize the conduct of foreign electronic surveillance for the purpose of defense against terrorism and other national security threats, *without individual warrants for overseas targets*, while protecting the civil liberties of Americans whose communications may be intercepted as a result.

Tough on Terrorists: the RESTORE Act prevents courts from extending Fourth Amendment protections to overseas targets such as Osama Bin Laden and other members of terrorist organizations. It closes any “foreign-to-foreign” ambiguity by making it clear that purely foreign communications do not require a court order even when the communication transits the U.S. or when the acquisition is in the United States because of changes in communications technology since FISA was first enacted.

Programmatic Authorizations: To solve any confusion over whether the intelligence community must obtain individualized warrants against foreign targets when there is a risk that they might be talking with Americans, the RESTORE Act allows a program of collection against the foreign target upon application and review. Then, rather than having to obtain individual warrants against *particular* foreign terrorists, the government will be able to incorporate them into the “basket” for the organization. This does not make the government obtain individual warrants for terrorists overseas – this is just a way to guarantee that Americans whose communications may be interdicted in the course of the surveillance are dealt with immediately in a legal manner while we gather intelligence against terrorists abroad.

Safeguards: the RESTORE ACT extends the ability of the government to acquire communications of persons abroad for the purpose of terrorism and other national security threats, but does so in a manner that responds to concerns that the this summer’s FISA revisions lacked sufficient judicial safeguards for Americans’ phone calls, e-mails, and other communications.

Reasonable Process: Programmatic authorizations are a new approach, so to guard against over-breadth or abuses while providing this flexibility, the RESTORE Act involves a reasonable court process. The government must apply to the Court for an order authorizing the surveillance program, and once the Court is satisfied that it is reasonable, it issues a judicial directive to the communications provider to assist the government. Emergency provisions means that no critical information will go uncollected. So, the intelligence community has the flexibility of not getting individual warrant, the Court has oversight and a legal structure is in place, Americans' privacy is protected, and the telecommunications providers have the certainty that they are being asked to provide information only as part of a legal process. The only persons who lose in this process are the terrorists.

Oversight: the RESTORE Act contains common-sense oversight through data collection, auditing, and regular Congressional reporting. It will get the true picture of the Administration's warrantless surveillance programs. It provides additional resources for the National Security Agency and Department of Justice to ensure that there are no backlogs of critical intelligence gathering.

FISA Exclusivity: the RESTORE Act firmly reiterates that FISA is the *exclusive* means of foreign intelligence surveillance, and that FISA exceptions can only be established through explicit statutory authorization.

House Report 110-373:

Part 1: [HTML Version](#), [PDF Version](#)

Part 2: [HTML Version](#), [PDF Version](#)

Full Judiciary Committee Mark-up:

[Markup of: H.R. 3773, H.R. 3678, H.R. 2830, H.R. 3564, H.R. 2405, H.R. 2884, H.R. 1512, H.R. 1312, H.R. 3387](#), October 10, 2007
[National Journal Report](#)

Summary of Committee Votes:

- [Rep. Nadler FISA Court Government Compliance Amendment](#) — Improves court oversight over the government's compliance with the FISA Court's orders by requiring the court to assess compliance with its orders as opposed to merely authorizing it to do so and by removing limitations on its review. **Adopted 23-14: R 0-14; D 23-0; I 0-0.**
- [Rep. Forbes Republican Substitute Amendment](#) — Would have allowed the attorney general to authorize electronic surveillance, without a court order, to acquire foreign intelligence information for periods of up to one year if the attorney general certifies under oath that the surveillance is directed at communications of a foreign power or citizen. The substitute amendment would also have required the attorney general to report to the House Permanent Select Intelligence Committee on procedures undertaken to minimize the surveillance of U.S. citizens and changed the definition of electronic surveillance to pertain to the acquisition of contents of any communication between persons that are not U.S. citizens and are not located within the United States. It would have prevented lawsuits against telecommunication providers that are alleged to have assisted the government with intelligence activities after Sept. 11, 2001. The substitute would also have transferred cases involving questions of the legality of classified communications intelligence activities to the Foreign Intelligence Surveillance Court. **Rejected 14-21: R 14-0; D 0-21; I 0-0.**

- [Rep. Jackson-Lee Minimization of U.S. Citizen Surveillance Amendment](#) – Clarified the bill's language and prevent "reverse targeting" by requiring the Administration to obtain a regular FISA warrant whenever a "significant purpose of an acquisition is to acquire the communications of a specific person reasonably believed to be located in the United States" rather than waiting until said person formally becomes a target. **Adopted by Voice Vote.**
- [Rep. R. Scott Purpose of Foreign Surveillance Requirement Amendment](#) – Amended the bill's auditing and reporting requirements. The current standard is that acquisition must be with the "significant purpose" of gathering foreign intelligence. The amendment seeks to obtain information about what additional purposes for which the government may be collecting. **Adopted 21-12; R 1-12; D 20-0; I 0-0.**
- [Rep. Gohmert Removal of Authorization Requirement Amendment](#) – Would have struck all provisions requiring authorization of the acquisition of communications of non-U.S. citizens located outside the United States. **Rejected 16-19; R 16-0; D 0-19; I 0-0.**
- **Vote to Report:** Favorably Reported to the Full House, as Amended, by a **Recorded Vote of 20-14; R 0-14; D 20-0; I 0-0.**

Full House Intelligence Committee Mark-up:

[House Intelligence Committee Passes the RESTORE Act](#), October 10, 2007
[National Journal Report](#)

Summary of Committee Votes:

- [Legal Immunity Amendment](#) – Would have provided retroactive legal immunity to communications companies who might have violated the law in cooperating with administration surveillance efforts during the last six years. **Rejected by a 9-10 roll call vote.**
- [Rep. Holt En Bloc Amendments](#) – Expands the FISA Court from 11 to 15 judges, adds resources and personnel for the FISA process, mandates more efficient electronic filing of FISA orders, reaffirms the exclusivity of FISA, and requires the President to disclose to Congress information and documents regarding the warrantless surveillance programs. **Adopted by a 12-7 roll call vote.**
- [Reps. Langevin/Holt/Tierney Court Reviews Amendment](#) – Requires that the FISA Court assess compliance, on a quarterly basis, with the guidelines that the Administration uses to determine the targets of a "basket order" and with the procedures, it uses to protect the civil liberties of U.S. persons. **Adopted by a 12-7 roll call vote.**
- [Rep. Rogers Sole Purpose Amendment to the Schakowsky Amendment](#) – Would have changed "the significant purpose to "the sole purpose." **Rejected.**
- [Rep. Issa Primary Purpose Amendment to the Schakowsky Amendment](#) – Would have changed "the significant purpose to "the primary purpose." **Rejected by an 8-11 vote.**

- Rep. Schakowsky Individual Warrants Amendment – Requires that the FISA Court approve guidelines to ensure that an individual FISA Court Order is sought when “the significant purpose of an acquisition is to acquire the communications of a specific United States person reasonably believed to be located in the United States.”
Adopted by a 11-8 roll call vote.
- Rep. Hoekstra Extend Existing Law Amendment – Would have permanently extended the “Protect America Act,” the Administration’s surveillance bill that passed in August, and granted retroactive immunity to telecommunications companies involved in the President’s warrantless surveillance programs. Chairman Reyes explained that the rejection of this amendment is due to the failure of the White House to first provide documents that would reveal the nature and extent of the President’s warrantless surveillance programs. “Before you can forgive someone,” Chairman Reyes stated, “you need to know what you are forgiving.” **Rejected by a 7-12 roll call vote.**
- **Vote to Report:** Favorably Reported to the Full House, as Amended, by a **12-7 party-line vote.**

CRS Reports:

(TBA)

GAO Reports:

(TBA)

CBO Report:

(TBA)

Organization Statements:

(TBA)

Administration Position:

(TBA)

Fact Sheets & Talking Points:

[Summary of H.R. 3773, the "Responsible Electronic Surveillance that is Overseen, Reviewed, and Effective Act of 2007",](#) Judiciary Committee
[A Comparison between the RESTORE Act and the Protect America Act of 2007 \(PAA\),](#) Judiciary Committee
[FISA Reform,](#) Talking Points
[Comparison with HR 3356,](#) Talking Points, Judiciary Committee

Press Releases, News Articles & Related Information:

[House Judiciary Passes RESTORE Act to Implement FISA Revisions,](#) October 10, 2007
[Pelosi Statement on Judiciary and Intelligence Committees Passing FISA Reform Bill,](#) October 10, 2007
[Hoyer Responds to President on Surveillance Bill,](#) October 10, 2007
[Conyers, Reyes Introduce FISA Revision Legislation](#)
[Intelligence Committee Questions DNI McConnell on FISA,](#) September 20, 2007
[House Judiciary Committee to Hold FISA Hearings,](#) September 4, 2007
[Chairman Reyes statement on passage of FISA legislation in U.S. House,](#) August 4, 2007

Other Resources:

[Cosponsors of H.R. 3773](#)

VETO OVERRIDE:

STATE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007

(Subject to a Rule)

Bill Text: [HTML Version](#), [PDF Version](#)

[Bill Summary and Status](#)

Committee: [Committee on Energy and Commerce](#), [Committee on Ways and Means](#)

Committee Staff Contact: Energy and Commerce 5-2927; Ways and Means 5-3625

LEGISLATION AT A GLANCE:

Invests \$35 billion in new funding for SCHIP. The bill reauthorizes the State Children's Health Insurance Program, investing an additional \$35 billion over five years to strengthen SCHIP's financing; increase health care coverage for low-income, uninsured children; and improve the quality of health care children receive. As Republican Senator Grassley has pointed out, "As far as the size of the package, it's important to understand that about half of the new money is needed just to keep the program running, and the rest goes to cover more low-income kids."

Ensures health care coverage for 10 million American children. First, the bill ensures that 6 million children who currently participate in the Children's Health Insurance program continue to receive health care coverage. It also extends coverage to nearly 4 million uninsured children, according to the nonpartisan Congressional Budget Office.

Does not "expand" the Children's Health Insurance Program; simply provides for enrolling children who are currently eligible but not yet enrolled. Despite claims by President Bush, this bill does nothing to "expand" the SCHIP program; it maintains current law regarding children's eligibility for SCHIP. Two-thirds of uninsured children are currently eligible for coverage through SCHIP or Medicaid – but better outreach and adequate funding are needed to identify and enroll them. This bill gives states the resources and incentives necessary to reach millions of uninsured children who are eligible for, but not enrolled in, the program.

Targets lowest-income uninsured children for outreach and enrollment. The bill is designed to target specifically the lowest-income uninsured children for outreach and enrollment in SCHIP coverage. The bill does NOT call for SCHIP coverage for children in families at higher income levels. Instead, it reduces federal matching funds for future coverage of children at higher income levels, and provides incentives to cover the lowest-income children instead.

Improves SCHIP benefits -- ensuring dental coverage and mental health parity. Under the bill, quality dental coverage will now be provided to all children enrolled in SCHIP. The bill also ensures that states will offer mental health services on par with medical and surgical benefits covered under SCHIP.

Provides states incentives to enroll uninsured low-income children. The bill provides incentives for states to lower the rate of uninsured children by enrolling eligible children in SCHIP and Medicaid, including providing bonus payments. States will receive state-based allotments that are responsive to state demographic and national spending trends. States that face a funding shortfall and meet enrollment goals will receive an adjustment payment to ensure that no child who is eligible for Medicaid or SCHIP is denied coverage or placed on a waiting list.

Replaces CMS August 17th letter to the states. On August 17, the Center for Medicare and Medicaid Services (CMS) sent a letter to the states drastically changing federal policy and placing unrealistic conditions on the ability of states to cover children above 250 percent of poverty. This bill replaces that letter. First, the bill states that it agrees with the President on the importance of ensuring that low-income children have health coverage and taking steps to address substitution of private coverage. Secondly, the bill replaces the letter with a more appropriate approach. In place of the letter, the bill gives states time and assistance in developing and implementing best practices to address substitution of coverage. The bill also puts the lowest-income children first in line by phasing in a new requirement for coverage of low-income children as a condition of receiving SCHIP funding for coverage of children above 300 percent of poverty.

Improves outreach tools to streamline enrollment of eligible children. The bill provides \$100 million in grants for new outreach activities to states, local governments, schools, community-based organizations, safety-net providers and others.

Improves the quality of health care for low-income children. The bill establishes a new quality child health initiative to develop and implement quality measures and improve state reporting of quality data.

Prioritizes children's coverage. The bill contains provisions to phase out the coverage of parents and childless adults in SCHIP. However, it provides coverage of pregnant women as a new state option as well as preserving the options to cover pregnant women through a state waiver or through regulation.

Is fully paid for – by raising the tobacco tax by 61 cents a pack. The higher the cost of cigarettes, the less likely kids will take up smoking. According to the Campaign for Tobacco-Free Kids, a 61-cent increase in the tobacco tax means that 1,873,000 fewer children will take up smoking. Furthermore, the vast majority of Members of the House and Senate – both Democratic and Republican – are on record in favor of raising tobacco taxes. In August, all but 4 House Republicans voted for the GOP motion to recommit that included an increase of 45 cents a pack in the tobacco tax.

House Report 110-14:

[HTML Version](#), [PDF Version](#)

CBO Report:

[Cost Estimate](#): as Reported by the House Committee on Rules on September 24, 2007

CRS Reports:

[RS22681](#): The Cigarette Tax Increase to Finance SCHIP

[RL34122](#): H.R. 3162: Provisions in the Children's Health and Medicare Protection Act of 2007

[RL34129](#): Medicaid and SCHIP Provisions in H.R. 3162 and S. 1893/H.R. 976

[RL34107](#): S. 1893/H.R. 976: The Children's Health Insurance Program Reauthorization Act of 2007

GAO Reports:

[GAO-07-876R](#): Department of Health and Human Services, Centers for Medicare and Medicaid Services: Medicare Program; Prospective Payment System for Long-Term Care Hospitals RY 2008: Annual Payment Rate Updates, and Policy Changes; and Hospital Direct and Indirect Graduate Medical Education Policy Changes

[GAO-07-558T](#): Children's Health Insurance: States' SCHIP Enrollment and Spending Experiences and Considerations for Reauthorization

[GAO-07-876R](#): Department of Health and Human Services, Centers for Medicare and Medicaid Services: Medicare Program; Prospective Payment System for Long-Term Care Hospitals RY 2008: Annual Payment Rate Updates, and Policy Changes; and Hospital Direct and Indirect Graduate Medical Education Policy Changes

Organization Statements:

[American Medical Association and AARP Support Letter](#)

[UAW Urges House to Override SCHIP Veto](#)

[More Than 270 Groups Urge President Bush to Sign Emerging SCHIP Bill](#)

[CHIP Reauthorization Support Letters and Releases](#)

Administration Position:

President Bush Vetoed the Legislation. [Administration Statement](#).

Fact Sheets & Talking Points:

[The Bipartisan Children's Health Insurance Bill IS a Compromise](#), Fact Sheet, Office of the Speaker

["Ten Million & Four" Reasons to Override the President's Veto of the Bipartisan Children's Health Insurance Bill](#), Fact Sheet, Office of the Speaker

[Top Myths](#), Fact Sheet, Office of the Speaker

[Children's Health Insurance](#), Office of the Speaker Site

[CHIP Clearinghouse](#), Office of the Majority Leader

[Rhetoric vs. Reality, President Bush's Misstatements on Bipartisan SCHIP Legislation](#),

[Fact Sheet, Office of the Speaker](#)

[President Bush's Threat to Veto Bipartisan SCHIP Bill What Some Republican Members Have to Say](#), Fact Sheet, Office of the Speaker

[CBO's Estimate of Changes in SCHIP and Medicaid Enrollment of Children](#)

[CHIPRA Spending](#)

[CHIP Section by Section](#)

[CHIP letter from 16 House Republicans](#)

[Fiscal Responsibility Quotes](#)

[S-Chip Poll](#)

[Poll on gop support for chip bill](#)

Press Releases, News Articles & Related Information:

[House Passes Expanded Children's Health Insurance](#), September 25, 2007

[Speaker's Office: CHIP Reauthorization Act Fact Sheet](#)

[Pelosi: 'We Remain Committed to Making SCHIP Into Law—With or Without the President's Support'](#)

[Pelosi and Reid: Congress Sends President Bush Bipartisan Children's Health Insurance Bill](#)

[Majority Leader Hoyer Statement on the President's Veto of CHIP Legislation](#)

[Majority Whip Clyburn Responds to President Bush on Children's Healthcare](#)

[Hoyer Statement on Children's Health Insurance Program](#)

[Majority Leader's Office: CHIP Fact vs. Fiction](#)

[Majority Leader's Office: President Bush Alone on Denying Children Health Insurance](#)

[Majority Leader's Office: Bad Habits Are Hard to Break: Will House Republicans Break Out Their Rubber-Stamp?](#)

[Caucus Chairman Emanuel on President Bush's Priorities](#)

[Dingell Opposes President's Threat to Veto CHIP Reauthorization](#), Press Release, September 20, 2007

[President Alone on Denying Children Health Insurance](#)

[Speaker Pelosi: President Should Support Bipartisan SCHIP Legislation For 10 Million Reasons - the 10 Million Children Who Will Receive Health Care Coverage](#)

[Majority Leader Hoyer's Statement on the President's Comments on Children's Health Insurance](#)

[Veto Threat Angers Republicans, Some on Hill Disagree With Bush on Health Insurance for Kids](#), [Washington Post](#), September 21, 2007

[Statement: Robert Greenstein on Congressional SCHIP Agreement](#), Center on Budget and Policy Priorities

[Examining the President's Comments on Congress' SCHIP Plan](#), Center on Budget and Policy Priorities

Other Resources:

[Cosponsors of H.R.976](#)